

Message Text

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43

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TO AMEMBASSY BERN

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E.O. 11652: N/A

AGS:EFIN

SUBJECT: CALIFORNIA TAXATION AND U.S.-SWISS INCOME TAX
TREATY

REF: BERN A-137

1. REFAIR QUESTIONS WHETHER CALIFORNIA REQUIREMENT THAT
VSL FILE RETURN INCLUDING INFORMATION ON LOSINGER
VIOLATES U.S.-SWISS INCOME TAX TREATY. ON U.S. SIDE
TREATY CLEARLY DOES NOT COVER STATE TAXATION. U.S.

TAXES COVERED BY CONVENTION (ART.1, PARA (1)(A)) INCLUDE

ONLY FEDERAL TAXES. STATE TAXES IN U.S., THEREFORE, NOT

COVERED BY TREATY AND MAY BE IMPOSED UNDER INTERNAL LAW

PROVISIONS.

2. TREASURY DOES NOT SEE HOW LOSINGER CONSTRUES TREATY

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AS PROHIBITING CALIFORNIA PRACTICES. HOWEVER, IF LOSINGER

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WISHES TO PURSUE MATTER FURTHER, ARTICLE XVII OF TREATY

PROVIDES PROCEDURE FOR TAXPAYERS TO BRING TO COMPETENT

AUTHORITY OF STATE OF RESIDENCE PROOF OF ACTION BY TAX

AUTHORITIES OF CONTRACTING STATES WHICH IS CONTRARY

TO CONVENTION. LOSINGER WOULD FILE COMPLAINT WITH

SWISS AUTHORITIES. IF THEY FEEL THAT CASE HAS MERIT

THEY WILL TAKE MATTER UP WITH U.S. AUTHORITIES. ROBINSON

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